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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

SENEGAL*

[28 February 1991]

* The initial report submitted by the Government of Senegal (E/CN.4/1277/Add.10) was considered by the Group of Three at its 1978 session.

Historical introduction

1. The crime of apartheid is a problem related to the characteristic violation of human rights by groups of individuals banded together to form States. One such case is the Republic of South Africa, where different Governments have made a policy of racial segregation since 1909, when Dutch-speaking Afrikaners and English-speaking groups joined to form the Union of South Africa on the strength of a law they passed.

2. From the 1789 Declaration of the Rights of Man and of the Citizen to the 1945 Charter of the United Nations and the 1948 Universal Declaration of Human Rights, a single principle has underlain the organization of mankind and has been taken up by each of these international agreements: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." The same principle is found in the Preamble to the Charter of the United Nations, which was signed in San Francisco on 26 June 1945 and entered into force on 24 October 1945: "We, the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, [...] in the equal rights of men and women and of nations large and small ...".

3. Apartheid is the antonym of this great principle on which mankind rests. In its etymological derivation, the word "apartheid" means "separateness", and the South African Government chose it for its system of separate development based on racial segregation, oppression and the exploitation of coloured people. As practised since by the Republic of South Africa, apartheid is a definite threat to international peace and security. For this reason the United Nations has been concerned with the matter since 1946, and has set itself the goal of organizing a rational legal battle to get it eradicated. The General Assembly and the Security Council ruled that apartheid was incompatible with the Charter of the United Nations, and called on South Africa to abandon the policy if it wished to remain a Member of the Organization. When South Africa flatly refused, the United Nations called on Member States to break off diplomatic, commercial, military, cultural, sporting and other relations with South Africa. It also called on the international community to condemn apartheid as a crime against humanity. In 1962, the General Assembly set up a Special Committee to monitor developments in the situation in South Africa.

4. In 1963, the Security Council revealed that weapons supplied to South Africa were being used to provide logistical support for its policy; it promptly declared a voluntary embargo on supplies of arms, which was later extended to equipment and materials used in the manufacture and upkeep of weapons. In 1970, the Security Council condemned all violations of the arms embargo and called on all States Members of the United Nations to apply it in full, and also to stop supplying military vehicles and spare parts, to cancel licences for weapons manufacture and to halt all military cooperation with South Africa. On 4 November 1977, following the repression of anti-apartheid demonstrators, the voluntary embargo was made mandatory by unanimous decision of the Security Council pursuant, for the first time in the history of the United Nations, to Chapter VII of the Charter, which allows for coercive

action. Previously, in 1973, the General Assembly had adopted the International Convention on the Suppression and Punishment of the Crime of Apartheid, which entered into force in 1976. South Africa persisted in applying its policy of apartheid, and on 12 November 1974 was deprived of its right to take part in the General Assembly; it has not taken part since. By contrast, liberation movements, including the African National Congress of South Africa and the South-West Africa People's Organization (SWAPO), are entitled to attend United Nations General Assemblies.

5. Within Africa, the Organization of African Unity (OAU) has, since its foundation on 25 May 1963, set up elaborate machinery to combat apartheid. It began by organizing a united front to combat this crime against humanity, making African and international public opinion fully aware of the danger South Africa posed to the continent. It was in that setting that OAU spurred the holding of a World Conference for Action against Apartheid in August 1977, in Lagos, Nigeria. The Conference adopted the Lagos Declaration for Action against Apartheid, which discussed and condemned all aspects of the system. The Conference also recognized the legitimate aspirations of the South African people and called on all States to lend them their backing and support. It committed all Governments and peoples to provide backing and support for the liberation movements recognized by OAU, and to enable the entire South African people to attain self-determination. OAU also prompted the countries bordering on South Africa - the so-called front-line States - to organize and form a secure base for actions by the liberation movements in their fight against apartheid. It also helped the South African liberation movements to organize themselves properly, and provided them with the moral and physical support they needed in their campaigns against South Africa.

6. As regards the Republic of Senegal, its efforts in the campaign against the crime of apartheid take a number of forms. First are the general aspects, Senegal's efforts as part of the concert of nations opposed to apartheid. Then there is a punitory aspect, marked by the absence of any relations of any kind with the South African apartheid regime. Lastly there is a preventive aspect, comprising all the legislative, administrative and legal precautions taken by the public authorities since independence to avert any racial prejudice that could eventually develop into apartheid. These three aspects of Senegalese policy together show the extent of the efforts made over more than a quarter of a century to weed out apartheid from the ranks of mankind.

I. General aspects of Senegalese policy on apartheid

7. Since attaining international sovereignty, the Republic of Senegal has never ceased to manifest its commitment to the principle of popular self-determination and its concern for the total liberation of the African continent. For a quarter of a century it has spared no effort to provide moral and physical support to the South African people struggling against apartheid, and to those fighting in Namibia. It is contributing to the struggle for Namibian independence as a complete territorial unit, including the base at Walvis Bay which South Africa is seeking to split off from the rest of the Territory.

8. This commitment has taken concrete form in a number of ways, including the first International Conference on Namibia and Human Rights, held in Dakar

in 1976; the election of Senegal to the presidency of the International Conference on Solidarity with the Struggle of the People of Namibia, held in Paris from 11 to 13 September 1980, and, recently, a meeting in Dakar in July 1987 between ANC leaders and leading white South African liberals on the topic "For a multiracial Republic of South Africa". After Senegal was elected to the presidency of the International Conference on Solidarity with the Struggle of the People of Namibia, it was asked to undertake the coordination, at the opening of the thirty-fifth session of the United Nations General Assembly, of initiatives to be taken in conjunction with the United Nations Secretariat in the context of efforts to bring about the liberation of Namibia.

9. At a meeting of the Security Council on the subject of Namibia held in New York in April 1981, Senegal was one of the countries designated to explain to the Council the conclusions reached at the meeting of the Coordinating Bureau of the Non-aligned Countries held in Algiers earlier that month. Together with other countries, it performed the same service at the Seventh Conference of Heads of State or Government of Non-aligned Countries in New Delhi, in March 1983. At the thirty-seventh session of the United Nations General Assembly, SWAPO and the President of the United Nations Council for Namibia jointly obtained the Senegalese delegation's consent that Senegal would preside at the International Conference in Support of the Struggle of the Namibian People for Independence, held in Paris from 25 to 29 April 1983. Besides this, Senegal contributes regularly to the Non-aligned Solidarity Fund for Namibia, the OAU Solidarity Fund for Namibia and the Special Fund of the OAU Coordinating Committee for the Liberation of Africa.

10. Mention should also be made of the eminently helpful role played by certain Senegalese non-governmental organizations in the struggle against apartheid and the illegal occupation of Namibia by South Africa. These include the Senegalese Association for African Unity (ASSUNAF), the Senegalese United Nations Association (ASNU) and the Senegalese Anti-apartheid Committee. These organizations work at all levels to alert Senegalese and international public opinion to the pernicious effects of apartheid.

11. On every occasion and at every level, Senegal is untiring in its manifold efforts to induce South Africa to withdraw from Namibia without preconditions, in accordance with the United Nations settlement plan set out in Security Council resolutions 385 (1976) and 178 (1978) and inspired by article 1 of the International Covenant on Civil and Political Rights.

12. A tour by the Senegalese President to the front-line States from 1 to 9 October 1985 provided confirmation of the resolve of the national liberation movements fighting illegal occupation and racial segregation in Namibia and South Africa to continue the battle against the system of oppression which apartheid represents. The presidential tour also provided an opportunity to secure official commitment by all the countries adjoining South Africa to the principle of comprehensive and mandatory economic sanctions against South Africa.

13. With all this information to support him, the President of Senegal was able, from the podium of the United Nations General Assembly on 23 October 1985, to call on the international community to continue to put

pressure on South Africa, to increase the aid it provided to the liberation movements fighting in southern Africa, and to convene in June 1986, under United Nations auspices, an international conference on sanctions against South Africa. Lastly, it should be mentioned that in order to commemorate the struggle by the South African fighters against apartheid, the Republic of Senegal named the square opposite the Senegalese Parliament after the black city of Soweto. It also named the avenue leading from the Presidential Palace to Parliament after the great South African campaigner, Nelson Mandela.

14. These various indications bear witness to the intention of the Senegalese authorities to leave no stone unturned in the mobilization of African and international public opinion against the loathsome crime of apartheid. Its example will doubtless prove a source of inspiration for the young people of Africa whose lot it is to take up the torch of the anti-apartheid struggle.

II. The punitory aspect of Senegalese policy on apartheid

15. The struggle against apartheid began in Senegal immediately after the country acquired international sovereignty. An official statement dated 16 July 1963 reads as follows:

> The Government of the Republic of Senegal, faithful to the Charter of the United Nations and the Universal Declaration of Human Rights and desirous of helping to bring about the unity and progress of the African continent; convinced that the objectives laid down in the Charter of the Organization of African Unity will bring about the disappearance of all forms of domination and segregation on the continent; decides:
>
> - To break off consular relations with Portugal;
> - To prohibit any aircraft or ship flying the Portuguese or South African flags to overfly the airspace, land at the airfields or put in at the ports of the Republic;
> - To ban from the territory of the Republic any foodstuffs, goods or articles arriving from Portugal or the Union of South Africa;
> - To prohibit any Portuguese or South African national from sojourning in the territory of Senegal.
>
> The above measures shall take effect immediately.

16. This political determination to combat apartheid took concrete form in Decree No. 63.524 of 17 July 1963, which reads as follows:

> The import into the territory of the Republic of any product originating in or arriving from Portugal or the Union of South Africa is prohibited. The Ministry of Finance and Economic Affairs shall be responsible for enforcing this decree, which will be published under the emergency procedure.

This first decree was followed by another, No. 63.535 of 27 July 1963, the thrust of which was as follows:

> Overflight of Senegalese territory by any aircraft bearing the national markings of Portugal or South Africa is prohibited. Landing at Senegalese airfields by the said aircraft is likewise prohibited. Aircraft in breach of this article will be seized.
>
> Any of the authorities referred to in article 81 of Act 62.19, dated 5 February 1963, establishing the Civil Aviation Code may perform the said seizure.
>
> Access to Senegalese ports and territorial waters is prohibited to ships flying the Portuguese and South African flags, whatever their place of registration.
>
> Vessels in breach of this rule will immediately be instructed to leave Senegalese territorial waters, and will if necessary be conducted to the limits thereof. The port authorities are empowered to issue the aforesaid instructions.
>
> In the event of failure to comply after instruction, the authorities referred to in article 215 of the Merchant Marine Code are empowered to take any steps that may be required to have the ships escorted to the limits of Senegalese territorial waters. In view of current international rules, this decree shall not, however, apply to salvage operations or assistance to aircraft or ships in distress, or to the conduct of such ships or aircraft to Senegalese ports or airfields.

17. A last Decree, No. 63.536 of 27 July 1963, reads as follows: "Entry into and sojourn within Senegal are prohibited to Portuguese and South African citizens."

18. After the independence of the territories formerly under Portuguese domination, the Government of the Republic of Senegal changed its stance towards the former colonial Power by removing it from the scope of the above decrees. Regard for form led to the adoption of new decrees to this effect, whose object was also to uphold the prohibitions vis-à-vis South Africa, the only country applying apartheid.

19. The first of these decrees appeared as No. 75.095 of 21 January 1975, amending Decree 63.524 of 17 July 1963. It read as follows:

> The title and article 1 of Decree No. 63.524 of 17 July 1963 are hereby rescinded and replaced by the following:
>
> Title: Decree 63.524 of 17 July 1963 prohibiting the import of products originating in or arriving from the Union of South Africa.
>
> Article 1: The import into the territory of the Republic of any product originating in or arriving from the Union of South Africa is prohibited.

20. The second decree appeared as No. 75.096 of 21 January 1975, amending the title and article 1 of Decree 63.536 of 27 July 1963 prohibiting Portuguese and South African citizens from entering or sojourning in the country. It read as follows:

> Title: Decree 63.536 of 27 July 1963 prohibiting the entry into and sojourn in Senegal by South African citizens.
>
> First article: Entry into and sojourn within Senegal are prohibited to South African citizens.

21. Lastly, the third such decree bore the number 75.097 of 21 January 1975, rescinding and replacing the title, article 1 and article 3, paragraph 1, of Decree No. 63.535 of 27 July 1963, prohibiting overflight of Senegalese territory and landing at Senegalese airfields by Portuguese and South African aircraft. It read as follows:

> Title: Decree No. 63.536 of 27 July 1963 prohibiting overflight of Senegalese territory and landing at Senegalese airfields by South African aircraft.
>
> Article 1: Overflight of Senegalese territory by any aircraft bearing South African national markings is prohibited.
>
> Article 3, paragraph 1: Access to Senegalese ports and territorial waters is prohibited to ships flying the South African flag, whatever their place of registration.

22. Thus for a quarter of a century there have been no contacts between the Republic of Senegal and the Union of South Africa either at the State level or among members of the general public. This, in our view, is heavy punishment indeed for the crime of apartheid, which must be nipped in the bud. The Senegalese Government has also used other means to punish the loathsome crime of apartheid, namely the international instruments drawn up by the United Nations to combat and stamp out this scourge.

23. Act No. 63.34 of 20 June 1967 ratified the Convention against Discrimination in Education of 14 December 1960. The President was authorized by Parliament to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, whose publication in the Official Gazette was ordered by Decree No. 72.992 of 26 July 1972. Act No. 77.08 of 5 July 1977 authorized the President to announce the accession of the Republic of Senegal to the International Convention on the Prevention and Punishment of the Crime of Apartheid. Publication of this Convention in the Official Gazette was ordered by Decree No. 77.300 of 18 April 1977. Act No. 81.74 of 10 December 1981 authorized the President to ratify the Convention on the Elimination of All Forms of Discrimination against Women. Act No. 83.21 of 28 January 1983 authorized the President to announce the accession of the Republic of Senegal to the Convention on the Prevention and Punishment of the Crime of Genocide adopted in New York.

24. Act No. 86.40 of 11 August 1986 ratified the International Convention against Apartheid in Sports of 10 December 1985. It should be noted that just

after independence, in an exchange of letters dated 9 May 1963 between the Secretary-General of the United Nations and the Republic of Senegal, Senegal, by virtue of the principle of succession of States, had already acknowledged itself bound by several international conventions on the subject of racial discrimination. These included:

(a) The International Convention for the Suppression of the Traffic in Women of Full Age, signed in Geneva on 11 October 1933;

(b) The International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, signed in Paris on 18 May 1904 and amended in New York on 4 May 1949;

(c) The International Convention for the Suppression of the White Slave Traffic signed in Paris on 4 May 1910, and amended in New York on 4 May 1949.

25. As will be realized, apartheid is a social phenomenon practised by just one State as a mode of government. This is why, from the point of view of punishment, it is on that State that the rigours of punishment should fall. Senegal has never lost sight of this in taking this series of measures.

III. Preventive aspects of Senegalese policy on apartheid

26. Apartheid emanates from, and is the most extreme version of, discrimination. Aware of this, the Republic of Senegal, while combating the scourge of apartheid on all fronts, has put in place an arsenal of legal measures to prevent acts of discrimination in any form. The principle underlying these measures is laid down by the Constitution, the basic law which shapes Senegalese public institutions and establishes the fundamental freedoms of the individual.

27. Articles 1 and 4 of the Constitution state that the Republic of Senegal shall be secular, democratic and social. It shall ensure equality before the law to all citizens without distinction as to origin, race, sex or religion. It shall respect every faith. Any act of racial, ethnic or religious discrimination and any regionalistic propaganda liable to disturb the internal security of the State or the territorial integrity of the Republic shall be punished by law. Article 7 of the Constitution lays down the principle that all human beings are equal before the law and proclaims equality of rights between men and women, adding that there shall not in Senegal be any liability or privilege arising out of birth, personal status or family.

28. Pursuant to this principle and in particular to the international Conventions on the elimination of all forms of racial discrimination and on the suppression and punishment of the crime of apartheid, the Republic of Senegal in Act No. 81.77 of 1 December 1981 adopted the definition of discrimination laid down in the former of the said two Conventions, which reads as follows:

> "Racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing

the recognition, enjoyment or exercise on an equal footing of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

29. The Act modified the Penal Code, by adding an article 283 bis. It also declared the following to be crimes subject to severe penalties:

(a) Any dissemination of ideas based on racial superiority or hatred;

(b) Any incitement to racial discrimination;

(c) Any acts of violence or provocation of acts directed against any race or group of persons of another colour or ethnic origin;

(d) Provision of any assistance to racist activities, including the financing of such activities.

30. For this purpose an article 256 bis was added to the Penal Code; the text of the new article renders liable to from one month's to two years' imprisonment and a fine of 25,000 to 300,000 francs.

[...] anyone who posts, displays or screens for public view, offers free of charge, even if not publicly, in any form, directly or by devious means, distributes or makes available for distribution by any means, any objects or depictions, printed matter, writings or drawings, posters, engravings, photographic portraits, films or snapshots, photographic negatives, engravings or reproductions or emblems intended to proclaim racial superiority or give rise to a sense of racial superiority or racial hatred, or constituting incitement to racial, ethnic or religious discrimination.

31. The Act also added an article 257 bis, reading as follows:

The penalties provided for under article 256 bis shall also apply to anyone who causes to be heard in public any songs, cries or speeches on the subject of racial superiority or constituting incitement to racial, ethnic or religious discrimination or racial hatred.

32. Article 261, paragraph 2, of the Penal Code as amended by Act No. 77.87 of 10 August 1977, states that:

Defamation, by the same means as described in article 248, of any group of persons who by origin belong to a specific race or religion shall be punishable by from two months' to two years' imprisonment and a fine of 50,000 to 500,000 francs when committed with the intention of stirring up hatred among citizens or inhabitants.

33. Article 262, paragraph 2, of the Penal Code states that:

Insult offered in the same manner to individuals in the absence of provocation shall be punishable by a maximum of two months' imprisonment, and a fine of 20,000 to 100,000 francs, or by either of these penalties alone. The maximum penalty shall be six months, and the maximum fine,

500,000 francs, if insult is offered to a group of persons belonging by origin to a specific race or religion, with the aim of stirring up hatr among citizens or inhabitants.

34. Article 277 of the Penal Code as amended by Act No. 81.77 of 10 December 1981 states that:

[...] If the charges are proven, the judgement may, in the cases provided for under articles 250, 251, 252, 254, 255, 256, 256 bis, 259, 260, 261, paragraph 2, 265 and 266, also order confiscation of any publishing materials that may have been seized, and may in all cases order the seizure and suppression or destruction of all copies produced

Suppression or destruction may, however, apply only to some of th copies seized.

35. The same Act, amending article 278 of the Penal Code, states that:

In the event of a conviction under articles 250, 251, 252, 254, 255, 256 bis, 259, 260, 261, paragraph 2, 265 and 266, publication of t journal or periodical may be ordered suspended by the same legal decisi for a period not exceeding three months. Such suspension shall not affect any labour contracts binding upon the owner, who shall remain liable to all the contractual or legal obligations deriving therefrom.

36. The Act amends article 281 of the Penal Code to read: "Any killing committed with premeditation and lying in wait, or motivated by racial, ethn or religious discrimination, shall be regarded as murder."

37. Article 295 of the Penal Code as amended by the same Act states that:

in the event of premeditation or lying-in-wait, or where wounding is inflicted for reasons of racial, ethnic or religious discrimination, th penalty shall be increased to:

- 5 to 10 years' imprisonment in the case of the injuries covere by article 294, paragraph 1;

- 10 to 20 years' forced labour in the case of the injuries covered by article 294, paragraph 2.

38. Article 296, paragraph 2, as amended by the same Act, states that:

if there has been premeditation or lying-in-wait, or if the act was committed for reasons of racial, ethnic or religious discrimination, imprisonment shall be for 2 to 5 years, and the fine, from 50,000 to 200,000 francs.

39. The same Act amends article 623 of the Code of Criminal Procedure to state that in the case of any offence based on an act of racial, ethnic or religious discrimination, even if the culprit is resident in Senegal, the culprit may be held in pre-trial detention before judgement.

40. In order to shield social, political, economic and cultural associations and organizations from the temptation of discrimination, the Senegalese authorities have also drawn up legislative preventive measures.

41. Article 3, paragraph 1, of the Constitution, which deals with political parties, states that: "Political parties shall compete in expressions of the electoral will. They are required to respect the Constitution and the principles of national sovereignty and democracy. They are forbidden to identify themselves with any race, ethnic group, sex, religion, sect, language or region." Article 9, paragraph 3, of the Constitution states that "Any groups whose aims or activities are contrary to the criminal law or inimical to public order shall be prohibited".

42. Article 814, paragraph 2, (amended by Act No. 79.02 of 4 January 1979) of the Code of Civil and Commercial Obligations, dealing with the conditions for admission into an association, states that "For the purposes of admission into an association, discrimination based on race, sex or religion is prohibited".

43. Article 1, paragraph 5, of Act No. 65.40 of 22 May 1965 on seditious associations was amended by the anti-discrimination Act No. 81.77 of 10 December 1977 to read: "[...] prohibition of associations whose activities are devoted wholly or in part to the practice of racial, ethnic or religious discrimination or to incitement to such discrimination".

44. Lastly, the State has not overlooked the possibility that discrimination might be practised by public officials. Hence article 166 bis of the Penal Code, which was inserted by Act No. 81.77 of 10 December 1981, states that:

> Any administrative or judicial official, holder of elected office, public employee, State official or appointee in a public institution, nationally-owned company, jointly-owned company or body corporate under private law enjoying financial support from the public authorities who without good reason denies an individual or body corporate benefit of a right on grounds of racial, ethnic or religious discrimination shall be punishable by imprisonment of from three months to two years and a fine of 10,000 to 2 million francs.

45. It is also appropriate to mention other preventive measures based on the constant improvement of human relations, between individuals and between peoples, taken by Senegal to avoid falling into the snare of discrimination. For example, Act No. 81.03 of 2 February established the Université des Mutants pour le dialogue des Cultures, for the purpose of "helping to make culture a fundamental part of people's lives and enable it to play an active part in the development process". There is also the foundation, by Decree No. 83.302 of 13 March 1983, of the Institute for Human Rights, whose principal task is to teach human rights and peace between individuals and peoples; the Senegalese Human Rights Committee, established by Decree No. 78.180 of 3 March 1978, whose task is to consider and bring to public attention all matters relating to the promotion and protection of human rights; and, lastly, Act No. 71.36 of 3 June 1936, laying down legal

guidelines for Senegalese national education, the purpose of which is to produce balanced individuals, i.e. individuals who can accept others, and Act No. 86.40 of 11 August 1986, on the International Convention against Apartheid in Sports.

46. To conclude, let it simply be said that these efforts by Senegal, combined with those of the international community, give grounds for optimism and suggest that we will very shortly witness the total eradication of the phenomenon of apartheid from the African continent.

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Addendum

Colombia

[12 March 1991]

Introduction

1. The Ministry of Foreign Affairs of Colombia presents its compliments to the distinguished Group of Three of the United Nations Commission on Human Rights and takes pleasure in submitting its first report on the measures taken to implement the provisions of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

2. The first part of this report deals with Colombia's general policy towards apartheid and the second part with specific policies which the Government has developed in recent years regarding the rights of the various ethnic groups living in Colombia and the policies which it intends to pursue over the next four years.

3. In order to supplement the information provided in this report, the Committee is respectfully invited to consult the fourth periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted by Colombia under article 9 of the Convention, and its third periodic report on the implementation of the International Covenant on Civil and Political Rights.

I. THE GENERAL POLICY OF COLOMBIA TOWARDS APARTHEID

4. The Colombian Government's conviction that apartheid is a crime against humanity and that together with racial segregation and discrimination it constitutes a serious offence and a violation of individual rights, led it to accede, through Act No. 26 of 1987, to the International Convention on the Suppression and Punishment of the Crime of Apartheid, which thus entered into force in Colombia on 22 June 1988.

5. Colombia has repeatedly supported measures adopted in the context of the United Nations to implement the Programme of Action Against Apartheid and has constantly rejected any policy of racial discrimination.

6. Colombia has no political, diplomatic, military, cultural or sporting links with the Government of South Africa.

7. The Government of Colombia has supported popular movements struggling to eliminate apartheid and to establish a democratic non-racial system in South Africa. Accordingly, Colombia has sponsored and approved a large number of resolutions in the United Nations General Assembly and the Security Council (of which it was a member until December 1990), some of which are listed below:

(i) Resolution 44/1. Death sentence passed on a South African patriot;

(ii) Resolution 44/17. Cooperation between the United Nations and the Organization of African Unity;

(iii) Resolution 44/27. Policy of apartheid of the Government of South Africa:

A. International solidarity with the liberation struggle in South Africa;

B. International support for the eradication of apartheid in South Africa through genuine negotiations;

C. Comprehensive and mandatory sanctions against the racist regime of South Africa;

D. Imposition, coordination and strict monitoring of measures against racist South Africa;

E. International financial pressure on the apartheid economy of South Africa;

...

G. Programme of work of the Special Committee against Apartheid;

H. Oil embargo against South Africa;

...

K. Concerted international action for the elimination of apartheid;

(iv) Resolution 44/52. Second Decade to Combat Racism and Racial Discrimination;

(v) Resolution 44/68. Report of the Committee on the Elimination of Racial Discrimination;

(vi) Resolution 44/69. Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

The Government of Colombia has also hailed the work of Mr. Nelson Mandela and his selfless struggle to achieve the liberation of his people, and has awarded him the "Orden Nacional al Mérito, Grado Gran Cruz" decoration (Decree No. 1433, of 15 June 1988).

8. Colombia was a member of the United Nations Council for South West Africa from 1967, when South Africa's mandate over the territory of South West Africa came to an end. The Council was the sole legal authority that administered the territory until it achieved complete independence. As a member of the Council, Colombia gave its support to all the steps taken to achieve the independence of Namibia and also supported many resolutions, such as resolution 435 (1978) and resolutions 628 (1989), 629 (1989), 632 (1989), 640 (1989) and 643 (1989).

9. On 21 March 1990, Namibia achieved its aim and became an independent nation. Colombia immediately sought to establish formal relations with the new republic, and on 28 April 1990 a joint communiqué was signed at United Nations Headquarters, New York, in which the two Governments established diplomatic relations and confirmed the bonds of friendship and cooperation between them for the mutual benefit of their peoples; the decision was based on mutual respect for the principles of international law and for the provisions of the Charter of the United Nations, and on the principles of peace, security, economic development and the elimination of all forms of colonialism and racial discrimination advocated by the Movement of Non-Aligned countries.

II. GOVERNMENT POLICIES ON THE RIGHTS OF ETHNIC GROUPS IN COLOMBIA

10. As the Group of Three is aware, in Colombia there is a great diversity of ethnic groups, resulting in an incomparably rich national heritage, both

culturally and socially. There are at present 81 indigenous groups, comprising over half a million persons, who speak nearly 75 different languages and inhabit 25 per cent of Colombian territory and have their own social and cultural world.

11. While it is true that until very recently these communities did not receive the care and attention they needed from the State, the situation is being corrected gradually but effectively with great concern being shown by the Government.

12. In order to remedy situations of marginalization, a number of measures have been adopted to recognize the inalienable rights of the indigenous peoples and assist them with specific policies.

13. The fundamental objective of the Colombian Government in recent years has been to take steps, design projects and support initiatives by the indigenous communities to strengthen the three-way relationship between the State, the indigenous peoples and society.

14. All these activities have been carried out through the Ministry of the Interior's Indigenous Affairs Division (DAI) by the Office of the President of the Republic, using the National Rehabilitation Plan, the National Planning Department (DNP), the Colombian Land Reform Institute (INCORA), the National Institute of Renewable Natural Resources and the Environment (INDERENA), the Ministry of Education, the Ministry of Health, indigenous organizations and other bodies.

15. One of the serious problems which affected the indigenous inhabitants of the Amazon area of Colombia was the wanton destruction of the natural resources of the Basin. Accordingly, the Government applied in that area the system of national parks and indigenous reservations.

16. The handing over of extensive tracts of land to the indigenous inhabitants did not at any time signify the pursuit of an apartheid policy. On the contrary, it was a recognition of the fact that they are the ancestral masters and that they are preserving the tradition necessary in order to utilize resources in harmony with nature. This measure was an important step both for the protection and promotion of indigenous rights and for the preservation of the world's ecosystem.

17. Its general purpose was to recognize the right of the indigenous communities to the territories traditionally occupied by them, to adopt programmes for the management, conservation, renewal and exploitation of natural resources, to upgrade the reservations by acquiring the developed land owned on them by third parties and allocating them free of charge to indigenous communities, granting lands to the indigenous communities which had none, and extending the reservations dating back to colonial times by acquiring more land.

18. The reservations, whether those of colonial origin or those set up by the National Agrarian Reform Institute (INCORA), are as follows:

Type of reservation	No.	Total hectares	Persons protected
Colonial	81	399 688	156 680
Established by INCORA 1967-1986	158	12 380 780	127 697
Established by INCORA 1986-1989	63	13 360 641	27 397
Total	302	26 141 109	311 774

19. The legislation on reservations consists basically of Act No. 135 of 1961, Act No. 31 of 1967 approving the ILO Convention concluded in Geneva in 1957 and the New Agrarian Reform, whereby INCORA itself can set up indigenous reservations (annexes 1 and 2).

20. It is important to stress that the above and other legislative measures adopted under the same policy are not intended to divide the population along any racial lines, to prohibit contacts with other racial groups or to restrict the right to freedom of movement or residence. Rather, the purpose is to preserve the cultural tradition and heritage by arranging sports events and through use of the language and other traditional expressions of each particular tribe.

21. Moreover, in keeping with the Government's purpose, the indigenous communities are guaranteed the right to use the renewable natural resources on their lands and, with the common consent of the various communities, steps have been taken to ensure the monitoring, renewal and sustainable use of those resources. To that end, on the basis of Resolution No. 0997 of 19 September 1987, indigenous inspectors of the natural resources of the reservations were appointed.

22. The Government's steps guarantee the racial groups the necessary conditions to organize themselves in accordance with their own usages and customs by virtue of Act No. 89 of 1890 (annex 3, pp. 145-149) and to strengthen indigenous participation in decision-making on policies and programmes affecting them by creating a series of mechanisms with indigenous participation, such as the Municipal Rehabilitation Councils, the Indigenous Affairs Policy Committees and the Sub-Committee of the Commission on Mining Legislation Studies and Reform.

23. Similarly, the Ministry of Agriculture issued Decree No. 2001 of 28 September 1988 establishing the "cabildos indígenas" (indigenous municipal councils) as "public entities of a special character" to govern the indigenous inhabitants and administer their territories (annex 3, pp. 155-159).

24. The indigenous population's powers of self-government were also made stronger in regard to the selection, formulation, implementation, control and direct management by that population of small community projects.

25. The Government's basic premise has been implementation of the rules on the protection of indigenous communities and the safeguarding of their rights on terms of equality with other nationals, while preventing racial discrimination and punishing those who perform such acts.

26. With the aim of guaranteeing equal treatment before the law, courses on indigenous legislation have been organized in the various communities; that task was carried out by the Ministry of the Interior's Indigenous Affairs Division, which provided legal assistance for the preservation of traditional values, community rights, territorial development, renewal of the cabildos and studies on the establishment of foundations, corporations and other legal entities. In particular, steps were taken to prevent violation of the human rights of the indigenous inhabitants in areas of armed confrontation with the guerrillas and, in addition, to implement the law which exempts indigenous inhabitants from military service.

27. In recent years, there have been training programmes to acquaint public bodies with indigenous legislation and to make sure that they respect the cultural values of the communities and that public officials, regardless of their status or post, apply the provisions which protect the rights of those communities. In addition, the programmes "Amerindian Thought" and "Human Rights" have been broadcast on the radio. Furthermore, pamphlets on indigenous legislation have been prepared under the National Rehabilitation Plan (annex 3) as well as a book on the Colombian Government's policy for the defence of indigenous rights and the conservation of the Amazon Basin.

28. Moreover, to promote the welfare of the indigenous peoples and provide them with a stable economy, the Government has supported indigenous initiatives for suitable development of their lands. These programmes have been formulated with due regard for the traditional economic bases of the communities and are based on producing more small surpluses for trading purposes and on guaranteeing basic services and improving infrastructure.

29. Major steps have been taken in farming. In this connection, programmes have related to raising cattle, sheep, and pigs and animal breeding, sugar mills, fish farms, crop improvement and diversification, marketing and low-interest loans.

30. According to the reports of the National Planning Department, in the period August 1986 to May 1990, the Government invested the sum of Col$ 21,444,126,000.

31. Protection of the right to health of the indigenous inhabitants has been strengthened by providing free medical assistance in accord with the traditional medicine of the various ethnic groups. Steps were taken to implement Decision No. 10013 of 1981, issued by the Ministry of Health, specifying that health services must be provided with due regard for the

cultural characteristics of each community and that both the supply of drugs and medical care for indigenous inhabitants must be free of charge (Annex 3, pp. 165-167).

32. The right to education is guaranteed by legislative measures, more particularly in recent years by Decree No. 1142 of 1978, which recognizes ethnic pluralism and sets out the right of the indigenous communities to receive education in keeping with their social, cultural and economic characteristics (annex 3, pp. 163-165).

33. The main purpose of the entire education programme has been to enhance the social decision-making capacity of the indigenous inhabitants with regard to their own future, as an essential factor in the exercise of political rights and self-determination.

34. Decree No. 2230 of 1986 set up the National Committee for Indigenous Linguistics, under the Colombian Institute of Anthropology (ICAN), to advise the Government on the formulation of policies for research, dissemination, protection, teaching, the training of experts in ethnolinguistics and the preservation of the Amerindian languages spoken in Colombia.

35. To facilitate access by indigenous inhabitants to higher education, bearing in mind that one of the main problems of the indigenous student population on completing secondary education is lack of money to enter university, the National University of Colombia has taken a decision to ensure that 2 per cent of its available places will be set aside for indigenous candidates.

36. Moreover, the "Alvaro Ulcué" Fellowship Fund has been set up, and the finances are managed by the Colombian Institute for Educational Credits and Technical Studies Abroad (ICETEX); the purpose of the Fund is to support indigenous students in their pre-university and pre-graduate studies.

37. The Colombian Government considers that the policy for the protection of the rights of the indigenous peoples cannot be separated from the measures taken for the conservation and preservation of the Earth's environment. Uncontrolled development is obviously a threat to the whole of mankind, leading, as it does, to indiscriminate exploitation of non-renewable natural resources, destruction of the ozone layer, pollution of the seas and the air, acid rain, climate changes, and nuclear tests and disasters. The Amazon region is vital, not only for the welfare of the indigenous communities that live there, but also for the conservation and preservation of the world's environment. Mindful of that fact, Colombia has decided to conserve the ecosystems and to respect the rights of the indigenous inhabitants of the Amazon region. As a result, areas for special management have been created and recognition has been given to the rights of the indigenous inhabitants to ownership of the land, use of natural resources, social and cultural self-determination and full participation in taking decisions that affect them.

38. Building on the policies pursued in the past in respect of the indigenous inhabitants, the present Government of President César Gaviria Trujillo proposes that a set of objectives should be formulated, combining the efforts

of all the bodies working with indigenous communities, to execute the State's current programmes of modernization, community participation and administrative decentralization.

39. The specific objectives that will be pursued over the next four years and given priority by the Government are as follows:

Land and natural resources

(a) To complete the process of establishing indigenous reservations for the communities where the situation regarding their territory has not yet been defined;

(b) To upgrade the reservations already established and to help to stabilize any colonization that may affect indigenous territories;

(c) To increase the size of those indigenous reservations which are too small for social, economic and cultural development;

(d) To grant land to those indigenous communities which have no land or insufficient land;

(e) To establish reservations with lands and improvements provided by the National Land Fund;

(f) To restructure the reservations set up during the colonial period, whose titles are legally valid;

(g) To support the initiatives of the indigenous population to ensure the preservation, monitoring, renewal and sustainable use of natural resources.

Production

To strengthen the traditional economies and, when it is viable, to permit the free adoption of modern alternative methods of production and self-sufficiency to enable the indigenous communities to give priority to producing more supplies for themselves and additionally to improving their market sales.

Exercise of rights

To consolidate, within the existing legal system, the special provisions that protect and establish the framework of the relationships between the State, the indigenous peoples and the other institutions of social and political life.

State administration

(a) To set up coordinating bodies to enable the indigenous population to participate effectively in determining, planning and developing the programmes and services made available to the communities by the State;

(b) To encourage formative processes which will enable the communities to assess their own resources and identify their needs and State officials to identify possible institutional inputs in a context of respect for the identity of the communities;

(c) To improve the administrative capacity and increase the participation of the indigenous communities in the decisions and programmes which affect them, on the basis of their own forms of organization;

(d) To devise mechanisms that will enable State representatives to be informed about the indigenous communities and equip themselves to deal with them in the appropriate manner.

Study

To improve ethnic education programmes, by upgrading the process, increasing their coverage and encouraging the research which will serve as its basis, especially linguistic research.

Health

To improve the living conditions of the indigenous communities by initiating participatory primary health care programmes, formulated and developed in the light of the special characteristics of each ethnic group and region.

Social communications

(a) To design a social communications component that seeks to influence globally the perception of the indigenous peoples and to generate a culture that respects and appreciates their social and cultural worth;

(b) To launch communications strategies designed especially for each sector of the population;

(c) To conduct studies which will enable the communications needs of the indigenous peoples to be ascertained and evaluated and to allow them to develop their own means and processes of communication among themselves.

40. Similarly, the following programmes will be organized in coordination with all the agencies working with the indigenous communities, and with the communities themselves:

Land and natural resources programme

(a) In conformity with existing legal provisions, the Colombian Land Reform Institute (INACORA) will complete the process of establishing territorial reservations, for some 35,000 indigenous people, situated in the forest and savannah area;

(b) Measures will be taken to upgrade indigenous territories, by acquiring land developed by settlers located within the reservations;

(c) Land will be purchased for those communities which have lost their land or which have insufficient land, or to restructure colonial reservations consisting of smallholdings;

(d) The lands of the National Land Fund purchased specifically for the indigenous communities will be legalized through the establishment of reservations;

(e) Socio-economic surveys will be carried out for the establishment of reservations on uncultivated lands and in order to determine land requirements and the areas likely to affect those requirements by INACORA's acquisition programme for the restructuring of reservations dating back to the colonial period;

(f) Reservations that have already been established will be demarcated and staked out by setting up boundary posts and fences;

(g) INACORA, in cooperation with the Indigenous Affairs Division of the Ministry of the Interior, will examine the titles of the colonial indigenous reservations;

(h) There will be cooperation with the indigenous population to ensure the sustainable development of natural resources, through participatory programmes that will be launched in the areas of education and environmental management and the execution of specific projects for resource replenishment, reafforestation and the natural recovery of deteriorated ecological resources. Special emphasis will be placed on preserving catchment basins and on forest renewal;

(i) The National Institute for Renewable Natural Resources and the Environment (INDERENA) will, jointly with the regional corporations and the indigenous organizations and authorities, take the necessary steps for the development of community land, by assisting the municipal councils and the traditional authorities in establishing areas of special management, to be set aside for agriculture, forestry, and for a combination of farming, forestry and animal rearing. Similarly, mechanisms will be devised to create ecological barriers to cushion and protect the indigenous territories from areas of settlement;

(j) Studies will be carried out on the social, cultural and environmental impact of the development programmes, especially those requiring infrastructure work which will affect the indigenous population in some way.

Production and funding programmes

41. Funding and production promotion programmes carried out by State bodies will be based on the following premises:

(a) Use and acceptance of indigenous peoples' know-how and production methods;

(b) Full participation by beneficiary communities in the design and implementation of production programmes;

(c) Support for regional projects relating to technical assistance, transport and product marketing.

42. Production alternatives designed with a view to self-sufficiency, the improvement of those traditional production systems that can be improved and the adoption of technologies suited to the ecosystem will be created in order to strengthen the economies of indigenous communities.

Programmes for the exercise of rights

43. The Indigenous Affairs Division will support and handle recommendations submitted by indigenous councils to the National Constituent Assembly.

44. The Indigenous Affairs Division will assume responsibility for advising and providing legal protection for indigenous communities and their members. It will take account of the internal procedures the indigenous communities use to settle their disputes and of their customary law and traditional methods of imposing penalties. The Colombian Family Welfare Institute (ICBF) will be responsible, in cooperation with the Ministry of the Interior, for dealing with situations relating to family matters.

45. Efforts will be made to have the Congress of the Republic adopt and ratify Convention No. 169 (1989) adopted by the International Labour Conference in Geneva in June 1989.

Programmes relating to the modernization, adaptation and management of the Government

46. A Permanent National Technical Commission on Indigenous Affairs (CONAI), an inter-agency body with indigenous participation, will be set up to coordinate, follow up, evaluate and adapt Government and supervisory activities relating to the human rights situation in indigenous communities.

47. In accordance with Decree No. 00312 of 1984, support will be provided for departmental indigenous development committees and encouragement will be offered for the establishment of others in regions where they do not yet exist.

48. Regional Indigenous Development Plans (PREDI) will be formulated and coordinated with the Integration Secretariat of the Office of the President and by the Ministry of the Interior's Division of Indigenous Affairs, with the participation of indigenous communities.

49. The Ministry of the Interior's Indigenous Affairs Division will be restructured in order to make it an administrative, technical and scientific body with its own resources and administrative autonomy.

50. Efforts will be made to establish a committee for the protection of the human rights of indigenous communities in cooperation with the Office of the Presidential Adviser on Human Rights.

51. In order to carry out the activities resulting from this policy, working methods will be standardized and inter-agency coordinating bodies will be set up by means of integration agreements and the provision of more financial, technical and human resources.

Ethnic education programme

52. The guideline will continue to be the ethnic education model adopted in the provisions contained in Decree No. 1142 of 1979, which recognizes ethnic pluralism and establishes the right of indigenous communities to receive an education in keeping with their socio-cultural and economic characteristics (annex 3, pp. 163-165).

53. Support will be provided for the activities of the National Committee for Indigenous Linguistics, which was set up as an advisory body to the Government for the formulation of policies relating to activities in connection with Amerindian language research, dissemination, protection, instruction and training.

54. Encouragement and support will be provided for indigenous education projects based on curricula designed by agreement with indigenous communities.

55. Support will continue to be given to the Alvaro Ulcué Fellowship Fund in order to facilitate access by members of indigenous communities to higher education.

56. Measures will be adopted to evaluate education programmes and the Summer Language Institute with the support and advice of the National Committee for Indigenous Linguistics.

57. The Ministry of Education and the Indigenous Affairs Division will coordinate activities to keep abreast of the indigenous communities' educational situation. Research work and educational processes will promote recognition of elements of the indigenous communities' historical and cultural heritage that have declined and may disappear.

58. Objective information on indigenous populations will be included in school curricula in order to create positive awareness of their situation in the country.

59. Encouragement will be provided for free intercultural exchanges based on the particular culture of each community and with a view to facilitating, in a critical way, access to and knowledge and understanding of cultural elements and expressions of the rest of society.

60. Campaigns will be conducted to disseminate information on indigenous legislation and knowledge of Indian peoples at the national and regional levels. Special courses will be given to Government officials who perform their functions in indigenous territories and to indigenous organizations and authorities, and training will be offered to teachers on the general concept of ethnic education.

Health programmes

61. Efforts will be made to improve the living conditions of indigenous communities by strengthening their traditional systems of medicine and methods of prevention and supplementing them with coordinated primary health care programmes. On the basis of Decree No. 1811 of 1990 (annex 4), activities will be coordinated by the Indigenous Affairs Division and the Ministry of Health in order to set up a permanent special technical unit composed of qualified staff to assume responsibility for the full training of medical and paramedical personnel working in indigenous areas, to design and follow up health programmes in cooperation with indigenous communities and to ensure the implementation of the legislation in force in this regard.

62. Studies on the structural factors that affect the morbidity and mortality rates of some indigenous groups will be carried out with the support of the Francisco José de Caldas Colombian Fund for Scientific Research and Special Projects (COLCIENCIAS) and the National Health Institute (INS).

63. The aim will be to provide health services for all indigenous communities and to set up flexible mechanisms for the diagnosis and referral of patients.

64. Where necessary, special programmes for mother-child care will be implemented on the basis of elements of indigenous culture and activities for the monitoring, supervision and treatment of undernourishment and malnutrition will be carried out with the support of the Colombian Family Welfare Institute (ICBF).

65. The Ministry of Health will make the necessary changes in Decree No. 1811 of 1990 on the basis of the identification of the problems involved in its implementation and of recommendations made by indigenous communities and organizations.

66. In cooperation with the Ministry of Health, ICBF will set up programmes which cover its specific areas of activity and are designed to strengthen and protect indigenous minors and families on the basis of their own systems and with the participation of each community in food self-sufficiency, endogenous, sociabilization and social supervision Programmes for minors will also be formulated on the basis of the provisions of articles 21, 93, 239 and 311 of Decree No. 2737 of 1989 (annex 5).

Social communication programmes

67. Education programmes will be carried out to create sustained awareness of the value and cultural wealth of indigenous peoples. Campaigns will focus on the meeting of two worlds and will be conducted as part of the celebration of the 500th anniversary of the Discovery.

68. An information strategy will be aimed at the management, political and institutional sectors and at the mass media in order to increase and improve their knowledge so that they might support initiatives taken by indigenous communities.

69. Activities will be carried out for officials of agencies working on indigenous programmes to increase awareness of the value and cultural differences of each indigenous community and the need to respect and protect them.

70. Studies will be carried out on channels of communication within organizations and social participation in indigenous communities in order to start learning about areas of influence and the means they use for communicating with one another.

Operational method

71. In accordance with the legal provisions in force, indigenous policy will be directed by the Ministry of the Interior through the Indigenous Affairs Division. Agencies which now handle programmes for indigenous communities will take part in the implementation of this policy.

72. Since the 500th anniversary of the discovery of America is being celebrated in 1992, it is hoped that indigenous peoples will achieve specific recognition in the Political Constitution of Colombia and in decisions adopted by the National Constituent Assembly, which, it should be noted, has two indigenous members who were freely elected in the voting which took place on 9 December 1990, Lorenzo Muelas Hurtado and Francisco Rojas Birry.

73. In conclusion, the fundamental and priority objective of Government policy is to improve the living conditions of indigenous communities on the basis of respect for their autonomy, recognition of their right to participation in society, support for social processes to promote self-management and alternative forms of social and economic development, bearing in mind the cultural values and characteristics of each people.

74. The intention of the Government of Colombia has been and will continue to be to promote the preservation and knowledge of the particular features of indigenous communities and to gear all efforts towards the development of their well-being while ensuring peaceful co-existence with and respect for other sectors of society.

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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

TUNISIA*

[2 April 1991]

1. The term "the crime of apartheid", which includes similar policies and practices of racial segregation and discrimination, is defined in article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

As regards the legislative, judicial, administrative and other measures adopted by Tunisia in order to give effect to the provisions of the Convention, it is pointed out that respect for the dignity of the human person, which had been demanded by the Tunisian national movement, has become a reality guaranteed and provided for in the Constitution.

2. Even before the adoption of the Constitution in 1959, Tunisia, having gained its independence, promptly joined the United Nations and subscribed to the Universal Declaration of Human Rights (12 November 1956).

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* The initial and second periodic reports submitted by the Government of Tunisia (E/CN.4/1353/Add.9 and E/CN.4/1983/24/Add.14) were considered by the Group of Three at its 1981 and 1984 sessions respectively.

3. The Tunisian Constitution has proclaimed, in its preamble, the determination of the Tunisian people "to remain faithful to the human values that constitute the common heritage of peoples attached to human dignity, justice and freedom". Furthermore, in its articles 5 et seq., the Tunisian Constitution enunciates the fundamental human rights and freedoms.

4. The fundamental human rights that are recognized and guaranteed by the Constitution are recognized and guaranteed for all without any discrimination and without regard to race, colour, sex, language, religion, political or other opinion, national or social origin, property or birth.

5. This is true in respect of article 5, which guarantees the inviolability of the human person and freedom of conscience, as well as the free exercise of beliefs; of article 8 on the freedoms of opinion, expression, the press, publication, assembly and association; of article 9 on the inviolability of the domicile and the secrecy of correspondence; of article 10 on the right of every citizen to move freely in the interior of the territory, to leave it and to establish his domicile; of article 11 which prohibits the expatriation of any citizen or the prevention of his return to his country; of article 12 on the presumption of innocence of every accused person; and of article 13 which provides that sentences are personal and cannot be pronounced except by virtue of a law existing prior to the punishable act.

6. Furthermore, no distinction is made between citizens. As is stated in article 6 of the Constitution: "all citizens have the same rights and the same duties. They are equal before the law."

7. Tunisia has also acceded to several human rights conventions, including those relating to non-discrimination. These conventions, which have been embodied in Tunisia's internal law and take precedence over any Tunisian legislation (art. 32 of the Constitution), confirm and express in more detail the prohibition of the various forms of discrimination. The following are some of the conventions which Tunisia has ratified:

The International Convention on the Elimination of All Forms of Racial Discrimination (ratified in 1966);

The Convention Against Discrimination in Education, adopted by the General Conference of UNESCO (ratified in 1969);

The Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1985);

The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (ratified in 1966);

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (accession in 1969) ...

8. Tunisia has never failed in its duty not to engage in any practice of racial discrimination against persons or institutions. On the contrary, as a Muslim country, it has established juridical machinery which testify to the

country's spirit of tolerance and equality under the law. Tunisia guarantees freedom of conscience and protects the free practice of beliefs.

9. More than 5,000 Tunisian citizens are of the Jewish faith. By an Act of 11 July 1958 the legislature has provided for the practice of their religion. The Act provides for Jewish cultural associations (one for each governorate). These bodies have legal personality. Their purpose is the administration of religious observance "... cultural assistance to needy persons of the Jewish faith, the organization of religious teaching and the management of establishments for such teaching" (art. 2 of the Act of 1958). Each association is administered by a board elected by the General Assembly. There are two requirements for election to such a board: to be of Tunisian nationality and to be 30 years of age or over. The Chief Rabbi is appointed by decree following the customary consultations. He is received by the Head of State with the same honours as the high dignitaries of Tunisia.

10. The status of the Catholic Church is laid down in a bilateral agreement between the Tunisian State and the Holy See that was concluded on 27 June 1964. Under this agreement the Tunisian Government protects the free practice of the Catholic faith (art. 1); the Church, for its part, undertakes to refrain from all political activity in Tunisia (art. 3). The Church possesses legal personality and is represented by the Prelate of Tunis, who is appointed by the Vatican. The agreement contains a number of provisions authorizing the full practice of the Catholic religion (arts. 4 and 5).

11. It must also be pointed out that the Constitution declares Islam to be the religion of the State. More specific and detailed legislation supplements the constitutional provision and confirms the neutrality of the Tunisian State, vis-à-vis the different religions:

(a) The Tunisian Nationality Code (of 28 February 1963), which establishes the ties of allegiance between Tunisian nationals and their country, excludes any definition of nationality based on religion and thus denies entitlement to a nationality based solely on the fact of being of a particular religious faith (jus religioni). In other words, Tunisian nationality is granted or acquired only on the bases of filiation (jus sanguini) (art. 6 of the Nationality Code), birth in Tunisia (jus soli) (arts. 7 to 10 of the Code), the benefit of the law (arts. 12 to 18) or naturalization (arts. 19 to 25). Consequently, not only is the Tunisian law positive, since, in the matter of nationality, it makes no distinction of a racial or ethnic character, but moreover, since the 1975 reform, the voluntary acquisition by a Tunisian of a foreign nationality is no longer an automatic ground for loss of Tunisian nationality (Act No. 75-79 of 1 November 1975);

(b) The Military Service Act. Article 15 of the Constitution considers "The defence of the country and its territorial integrity" to be "a sacred duty of every citizen". It follows necessarily from this that Tunisian citizens, in principle regardless of their religion, are liable to military service, due account being taken of the Nationality Code and the Military Service Act. Thus, military service is required of "all Tunisian citizens who are 20 years of age, unless they are medically certified to be unfit for service" (Act No. 87-19 of 31 May 1967 relating to military service).

12. Tunisian legislation therefore prohibits racial discrimination and guards the country from the temptation to justify, by legal artifice, the practice of racial discrimination by private groups or public institutions. Furthermore, Tunisian law contains a set of provisions designed to punish those who hamper or disturb the practice of a religion and to punish racial or religious hatred.

13. The Criminal Code establishes, in its article 165 a penalty of imprisonment for six months and a fine for anyone who hampers or disturbs the conduct of religious worship or ceremonies, without prejudice to more severe penalties applicable in the case of insult, assault or threats. Article 166 establishes a penalty of three months' imprisonment for anyone who, without lawful authority over a person, compels that person, by violence or threats, to practise or refrain from practising a particular form of religious worship.

14. The Criminal Code also establishes, in article 161, a penalty of one year's imprisonment and a fine for anyone who destroys, degrades, mutilates or soils buildings, monuments, emblems or objects used for worship.

15. The Press Code (art. 44) establishes a penalty of two months' to three years' imprisonment and a fine for anyone who, through the press or by any other intentional means of dissemination, incites to racial hatred or the causing of offence to any religion whose practice is authorized. For defamation or insult committed with the object of inciting to hatred of a group of persons who, because of their origin, are of a particular race or religion the Code establishes penalties that are more severe than those applicable where these offences are committed against individuals (art. 53, para. 3, and art. 54, para. 4).

16. The foregoing shows clearly that Tunisia is juridically equipped to prevent any practice involving racial segregation or discrimination.

17. The existing legal arsenal has been strengthened by the promulgation of the basic law on the organization of political parties (Organic Law No. 88-32 of 3 May 1988). This law requires parties "to ban violence in any form, as well as fanaticism, racism and all other forms of discrimination" (art. 2). Furthermore, a political party "may not base its principles, activities and programme fundamentally upon a religion, a language, a race, a sex or a region" (art. 3).

18. Attention is drawn to the fact that humanitarian and human rights organizations occupy a prominent place in Tunisia and carry out their activities in close and continuing cooperation with the governmental authorities.

19. The Tunisian League for Human Rights and the Tunisian Association for Human Rights and Public Freedoms play an important role in the area of defence and safeguarding of human rights. The statutes of the Tunisian League for Human Rights state that the League:

Is a voluntary organization for the defence of human rights;

Defends democratic freedoms and social justice and seeks the means of establishing a just and lasting peace among nations;

Continually opposes arbitrary action, violence, intolerance and all forms of discrimination from wherever they may come.

20. Clear instructions have been given by the Government, through the Minister for Home Affairs, to all officials of the Ministry in general and to officers and other personnel of the Internal Security Forces in particular, with the object of ensuring that citizens are treated on the basis of the law and on an equal basis, without distinction, and of facilitating the stay of foreign residents in Tunisia.

21. It is perhaps appropriate to point out that Tunisia, having been a crossroads of civilization where several races have mingled, where the Muslim faith forbids any discrimination, and where the problem of racial discrimination has never been known, welcomes the continuing efforts being made by the international community, and by the United Nations in particular, to put an end to apartheid, which constitutes not only a violation of the principles of the Charter of the United Nations and of human rights, but also a threat to peace and security throughout the world. For this reason Tunisia has repeatedly reaffirmed its total solidarity with the black people of South Africa in their heroic struggle for freedom and for the elimination of apartheid, one of the most distressing problems humanity has known.

22. In the general area of human rights, Tunisia can pride itself on having made substantial progress since 7 November. A substantial juridical arsenal has been developed for strengthening individual and public freedoms, thus establishing the rule of law and committing the country to a henceforth irreversible democratic process. The declaration of 7 November marks important steps in the implementation of the legislative guarantees that have been adopted.

23. Several bold and comprehensive initiatives have been taken: enactment of the new law on police custody and preventive detention, that is designed to protect the individual against any kind of abuse; the establishment of a constitutional council to see that Tunisia's laws are consistent with the spirit and the letter of the Constitution; a new law on parties that establishes effective political pluralism; the authorization of a Tunisian section of Amnesty International (Tunisia has thus become the first Arab country to give legal authorization for a local section of Amnesty International); abolition of the penalty of hard labour; ratification, without reservation, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and of course, the release of all political prisoners.

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